contours of the President's energy regulations—regulations that will affect millions of our constituents in profound ways.

Appropriations bills are exactly what the Senate should be voting on. Our constituents sent us here to debate big issues, to amend and improve policies that work, and to repeal the ones that don't. That is our job description. But the Democratic majority won't allow us to fulfill it.

The extremism here is really worrying. But the majority leader couldn't get away with it if the Democrats in his conference who claim to be ''moderate'' would actually stand up to him for once. The so-called moderates could stand up to him when he tries to shut down the legislative process, but they don't. The so-called moderates could stand up to him when he blocks every reform of the President's job-killing regulations or when he blocks every effort to approve the Keystone Pipeline, but they don't. They won't even stand up to President Obama when he jets off to speak to partisan groups and friendly audiences that rarely have the best interests of coal country at heart.

I know the President will also be trying out a new PR campaign today to see what life is really like for the middle class—for those beyond the White House gates. But he won't see the consequences of his EPA regulations at a political rally. He won't see what his IRS has done to grassroots organizations. He won't hear from the families of veterans who died while waiting for a bureaucrat to hand out a doctor appointment. And he won't see the damage ObamaCare has caused for working families.

Well, if he is actually serious about this initiative, then he will come to Kentucky to see the tragic effects of his policies firsthand. I invite him to visit with local coal families in my State and hear the other side of the story they won't hear from California billionaires. I invite him to meet with the veterans I hear from every day, and I invite him to meet with families such as the Whitehead family from Allen County, who write to me about the damage his ObamaCare law has already done to them. But I doubt he will, and I doubt the so-called moderate Senators will push him to do so anyway.

So perhaps it is time these Senators stop referring to themselves as moderate at all. If they are not willing to stand up to the majority leader or the President when it counts, then they are just another party-line Democrat. It is really too bad, because we Republicans on this side of the aisle want to come to bipartisan solutions on the issues affecting so many of our constituents. We want to pass commonsense energy legislation that can create well-paying jobs, increase North American energy independence, and lower utility prices for struggling middle class families. We want to give Congress a say on extreme policies from the administration that take aim at middle class jobs in each of our States. But we can't do any of that without dance partners on the Democratic side. And there is hardly a true moderate in sight anymore. I can remember when we used to have moderates over on the Democratic side, but we can't find them today. It is a shame for our country.

I and my party are going to keep fighting for the middle class either way, even if we have to continue carrying on the battle for sensible, commonsense solutions all by ourselves.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 11:45 a.m., with the time equally divided and controlled between the two leaders or their designees, and with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Vermont.

Mr. SANDERS. I thank the Chair.

(The remarks of Mr. SANDERS pertaining to the introduction of S. 2548 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SANDERS. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

KRAUSE NOMINATION

Mr. TOOMEY. Mr. President, I rise this morning to speak on the nomination of Cheryl Krause to serve as a judge on the Third Circuit Court of Appeals.

Cheryl Krause was nominated by the President on February 6, 2014.

I want to start with a few thank yous for where we are in this process. First, Chairman LEAHY and Ranking Member GRASSLEY. I appreciate their expediting the consideration of Cheryl Krause through committee. They moved that process along very quickly.

I thank Leader REID and Leader MCCONNELL for agreeing to bring Ms. Krause's nomination to the Senate floor so quickly. In fact, later this morning my understanding is we have a cloture vote on consideration of her nomination.

From my point of view, this is part of an ongoing effort I have with Senator CASEY, my colleague from Pennsylvania—a bipartisan collaboration to make sure we are filling vacancies as they occur, as quickly as we responsibly can, to make sure we have as close to a full complement of Federal judges as we possibly can.

So thus far, in the 3½ years I have been in the Senate, Senator CASEY and I have worked closely, and we have had 10 people who have gone through the entire process—from the application process, the vetting process, the consideration, the recommendation by Senator CASEY and myself jointly to the White House, the nomination, and through the confirmation process—10 people who have successfully gone through that process already. There are four additional candidates, recently nominated by the President at the recommendation of Senator CASEY and myself, and I am very hopeful the Senate will confirm all four of them later this year.

We still have remaining vacancies, and we are working on filling those vacancies as well, but we are making progress, and it is in this spirit of bipartisan cooperation in filling vacancies on the Federal court that Senator CASEY and I are both enthusiastically supporting the nomination of Ms. Krause to the Third Circuit.

I certainly hope my colleagues on both sides of the aisle today will vote to support her confirmation.

Cheryl Krause is an extremely qualified individual. There is no question about that. She has a wealth of legal experience in both public service and in private practice. In fact, her background is so impressive that the ABA gave her a unanimous well-qualified rating.

She has excellent educational credentials. She earned her undergraduate degree from the University of Pennsylvania, where she graduated summa cum laude. She went on to Stanford Law School, where she graduated with highest honors. She clerked for Justice Kennedy on the U.S. Supreme Court.

She has been a U.S. attorney in the Southern District of New York, where she served for 5 years. She has taught at the University of Pennsylvania Law School. She is currently a partner at the law firm of Deckert LLP.

So she has a wealth of experience—it is relevant experience—and a terrific background. She has been both on the prosecution side and on the defense side, so she understands both perspectives, both of which need to be understood to have a properly balanced perspective on the court.

In addition to a very strong legal record, Cheryl Krause has demonstrated a commitment to serving her community. She served as counsel to the Philadelphia Board of Ethics. She has represented children with disabilities. She has led Deckert's partnership with Penn Law School in a project that supervises law students representing indigent defendants.

She comes from a family of public service. Her husband has a distinguished career in the United States military.

So, to conclude, I am confident Ms. Krause will serve as an excellent Federal appellate judge. She has the crucial qualities we look for in a candidate for such an important post: intelligence, integrity, experience, a

commitment to public service, and an understanding of and respect for the limited role the judiciary plays in our constitutional system.

The Senate Judiciary Committee apparently shares my confidence in Cheryl Krause. They unanimously reported her out of committee, unanimously supporting her confirmation.

So I am pleased to speak on behalf of this highly qualified nominee, and I urge my colleagues to support her confirmation.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

RECESS APPOINTMENTS

Mr. GRASSLEY. Mr. President, I rise today to praise the Supreme Court's decision to strike down President Obama's illegal recess appointments. Article II, section 2 of the Constitution provides for only two ways in which Presidents may appoint certain officers:

First, it provides that the President nominates and, by and with the advice of the Senate, appoints various officers.

Second, it permits the President to make temporary appointments when a vacancy in one of those offices happens when the Senate is in recess.

On January 4, 2012, the President made four appointments. They were purportedly based on the recess appointments clause. He took this action even though they were not made, in the words of the Constitution, ''during the recess of the Senate.'' These appointments were blatantly unconstitutional. They were not made with the advice and consent of the Senate, and they were not made ''during the recess of the Senate.'' In December and January of 2011 and 2012, the Senate held sessions every 3 days. It did so precisely to prevent the President from making recess appointments. It followed the very same procedure as it had during the term of President Bush, and that was done at the insistence of Majority Leader REID. President Bush then declined to make recess appointments during these periods, thus respecting the desire of the Senate and the Constitution that we were in session. But President Obama chose to attempt to make recess appointments despite the existence of the Senate being in session.

The Supreme Court said today:

> [F]or purposes of the Recess Appointments Clause, the Senate is in session when it says it is, provided that, under its own rules, it retains the capacity to transact Senate business.

That is a quote from the decision.

No President in history had ever attempted to make recess appointments when the Senate said it was in session. And I am a little surprised, since President Obama had served in the Senate, that he would not know how this had been respected in the past by Presidents.

President Obama failed to act ''consistent with the Constitution's broad delegation of authority to the Senate to 'determine the Rules of its Proceedings,' '' as the Constitution states.

These illegal appointments represent just one of the many important areas where President Obama has disregarded the laws with his philosophy of the ends justify the means.

We should all be thankful the Supreme Court has reined in this kind of lawlessness on the part of this administration, and it should also bring some confidence that at least from time to time—maybe not as often as our constituents think—the checks and balances of government do work.

The Supreme Court was called upon to decide whether President Obama could make recess appointments even when the Senate was in pro forma session. Fortunately for the sake of the Constitution and the protection of individual liberty, the Supreme Court said he could not. This is a very significant decision. It is the Supreme Court's biggest rebuke of any President—because this was a unanimous decision—since 1974 when it ordered President Nixon to produce the Watergate tapes. The unanimous decision included both Justices whom even this President appointed to the Supreme Court.

That shows the disregard in which the President held this body and the Constitution when he made these appointments. Remember, as I just said, I am a little surprised because at one time he was Senator Barack Obama.

Thanks to the Supreme Court, the use of recess appointments will now be made only in accordance with the views of the writers of the Constitution, our Founding Fathers.

It is worth keeping in mind what the President, the Justice Department, and the Senate said at the time of these appointments. The President said his nominees were pending and he would not wait for the Senate to take action if that meant important business would be done. So the President stated in another way that ''I have a pen and a phone, and if Congress won't, I will.'' But the Supreme Court has made clear that failure to confirm does not create Presidential appointment power.

The appointments were so blatantly unconstitutional that originally there was speculation that the Justice Department had not approved their legality. But, in fact, the Department's Office of Legal Counsel had provided a legal opinion that claimed to justify the appointments—in other words, justify the unconstitutional action of the President. The Department's Office of Legal Counsel's reasoning was preposterous, and this unanimous decision backs that up. That office defined the same word—''recess''—that appears in the Constitution in two different places differently and without justification. It claimed that the Senate was not available to do business, so that it was in recess when the President signed legislation that the Congress passed during those pro forma sessions. The Department allowed the President, rather than the Congress, to decide whether the Senate was in session.

As today's Supreme Court unanimous decision makes clear, the Office of Legal Counsel opinion was an embarrassment, reflecting very poorly on its author. She had told us in her confirmation hearing that she would not let her loyalty to the President overcome her loyalty to the law. This Office of Legal Counsel opinion proved otherwise. It said the President had a power he did not have. He did not have that power, as expressed today by that unanimous decision of the Supreme Court.

Those partisans in that office who defended that opinion and its author should be humbled and should take back their misplaced praise—not that I expect them to do so.

The Office of Legal Counsel opinion furthered a trend for that office from one which gave the President objective advice about his authority to one which provided legal justification for whatever action he had already decided he wanted to take. Perhaps now that the office has been so thoroughly humiliated, it will hopefully conclude that the Department and the President will be better served by returning to the former role of that office as a servant of the law and not a servant of the President.

The other statements to keep in mind were from Senators. No Senator of the President's party criticized President Obama for making these clearly unconstitutional appointments, even though they felt we ought to protect against President Bush doing that. Rather than protect the constitutional powers of the Senate and the separation of powers, they protected their party's President.

Those were not the Senate's best moments. This underscores again the need to change the operation of the Senate. Appointment powers and the separation of powers are not simply constitutional concepts, they are the rule for how the American people are protected from abuse by government officials. They exist not so much to protect the branches of government but to safeguard individual liberty.

I often quote from Federalist Papers, this time from 51. Madison wrote that the ''separate and distinct exercise of different powers of government'' is ''essential to the preservation of liberty.''

President Obama's unconstitutional recess appointments are part of a pattern in which he thinks that if he cannot otherwise advance his agenda, he can unilaterally thwart the law. That is a pretty authoritarian approach to governing. Whether it is with respect to drugs, immigration, recess appointments, health care, and a number of other areas, President Obama has concluded he can take unilateral action regardless of the law. And, of course, as